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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MS 12 - 8

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UNITED STATES OF AMERICA

COMPLAINT

- against -

JOHN WILLIAM SHOLLY,

M. No. \_\_\_\_\_  
(18 U.S.C. § 2252(a)(2))

Defendant.

- - - - -X

EASTERN DISTRICT OF NEW YORK, SS.:

DEBRA GERBASI, being duly sworn, deposes and says that she is a Special Agent with the Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), duly appointed according to law and acting as such.

On or about and between October 27, 2011 and November 16, 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant JOHN WILLIAM SHOLLY did knowingly and intentionally receive visual depictions using a means and facility of interstate and foreign commerce, which visual depictions had been mailed, shipped and transported in and affecting interstate and foreign commerce, the production of such visual depictions having involved the use of one or more minors engaging in sexually explicit conduct and such visual depictions were of such conduct.

(Title 18, United States Code, Section 2252(a)(2)).

The source of my information and the grounds for my

belief are as follows:<sup>1</sup>

1. I have been employed as a Special Agent with ICE, formerly the United States Customs Service, since November 2002, and I am currently assigned to the Long Island Assistant Special Agent-in-Charge Office. Since February 2009, I have been assigned to investigate Sexual Exploitation of Children ("SEOC") violations of federal law, including the production, importation, advertising, receipt, possession and distribution of child pornography which occur in the Eastern District of New York. Since that time I have engaged in daily work related to conducting these types of investigations and the execution of searches involving individuals suspected of possessing, receiving and distributing child pornography. In addition, I have consulted with other ICE Agents and law enforcement personnel who have extensive training and experience in child sexual exploitation investigations and computer forensics. I am also a member of the Eastern District of New York Project Safe Childhood Task Force.

2. I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents, my training and experience, and discussions I have had with other law enforcement personnel concerning the creation, distribution, and

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<sup>1</sup> Because the purpose of this complaint and affidavit are merely to establish probable cause to arrest, I have not set forth all of the facts and circumstances concerning this investigation of which I am aware.

proliferation of child pornography. Additionally, statements attributable to individuals herein are set forth in sum and substance and in part..

#### BACKGROUND INVESTIGATION

3. As part of an undercover operation, an HSI Special Agent created an undercover peer-to-peer user account in order to conduct child exploitation investigations on a peer-to-peer network.

4. On September 30, 2011, the undercover agent signed into the undercover account on the peer-to-peer network and saw that a user "Shollyboy" was sharing files in folders entitled "1234," "12345," "BOYS-New," "New Folder (2)" and "New Folder." At approximately 2:05 P.M. DST, the undercover agent selected 112 which appeared to contain child pornography and began to download these files directly from user "Shollyboy's" peer-to-peer network. Many of these files appeared to depict children engaged in sexually explicit conduct. Four of these images, which are available for the Court's review, are described as follows:<sup>2 3</sup>

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<sup>2</sup> These images were reviewed by the Honorable United States Magistrate Judge Gary Brown on December 30, 2011 pursuant to the issuance of a search warrant for the residence of defendant JOHN WILLIAM SHOLLY, located in Bohemia, New York (described below).

<sup>3</sup> Although still images of apparent child pornography can be created using "morphing" technology and the identity of the minors in these images is not believed to be known to law enforcement (i.e., the identity and age of the child has not been discovered by law enforcement), it appears that these images involve the use of actual (i.e. non-virtual) minors engaging in sexually explicit conduct. This conclusion is also based upon my experience in determining whether child pornography images depict real children, as well as consultation with other law enforcement personnel who also have extensive experience in identifying child

a. The image file titled "425796\_1246433771.jpg" depicts a naked pre-pubescent boy lying down. In the image a naked adult male can be seen placing his penis into the mouth of the boy;

b. The image file "360985\_1258989652.jpg" depicts a young boy approximately 8-10 years old engaged in oral sexual explicit activity with an adult male while the adult male holds that boy's head;

c. The image file "20-10-06 020.jpg" depicts an adult male is engaged in anal intercourse with a pre-pubescent boy; and

d. The image file "20-10-06 016.jpg" depicts an adult male attempting to insert his penis into the anus of a pre-pubescent boy.

5. During the download of these files, the undercover agent used a publicly available software utility in order to identify the internet protocol (IP) address of user "Shollyboy." This IP address was identified as 69.113.75.46.

6. Records obtained via administrative subpoena from the internet service provider for this IP Address showed that at the date and time of the undercover download, IP Address 69.113.75.46 was subscribed to the residence of defendant JOHN WILLIAM SHOLLY.

#### THE SEARCH OF DEFENDANT'S RESIDENCE

7. On January 4, 2011, I and other law enforcement personnel executed a search warrant issued by the Honorable United \_\_\_\_\_ pornography images depicting real children.

States Magistrate Judge Gary Brown for the Eastern District of New York at the residence of defendant JOHN WILLIAM SHOLLY in Bohemia, New York. Defendant SHOLLY was present and admitted that his email address was Shollyboy@gmail.com and admitted which bedroom was his. After being informed of his Miranda rights, defendant SHOLLY declined to speak with agents without an attorney present. Thereafter, defendant SHOLLY made a number of unsolicited comments to investigators, including that he had just been looking online last night about there being two types of people involved in these crimes (referring to child pornography) and he is not the type that would hurt anyone and that he was glad that this happened because he did not have anyone to talk to about it before today.


8. A preliminary forensic examination of items of computer equipment found in the bedroom of defendant JOHN WILLIAM SHOLLY has been conducted. That preview has confirmed the presence of numerous images and videos of apparent child pornography depicting children as young as four years old. Four of the video files, which are available for the Court's inspection, and which were downloaded by defendant SHOLLY between October 27, 2011 and November 16, 2011, included the following:

- a. A video file more than twenty-seven minutes in length titled "!!! New 2007 !!! Batal-Baby Orgie 4-6Yo.avi" depicting approximately three girls aged four to six years' old girl engaging in a variety of sexual activities with an adult male, including apparent vaginal penetration;
- b. A video file approximately thirty-eight seconds in length titled "(Boyparty) Mj 6Yo Boy(With Dad).mpg" depicting an approximately six year old boy engaged in oral sexual


contact with an adult male;

- c. A video file approximately nineteen seconds in length titled "(-Jho-)\_6Yo\_Tiny\_Tessa\_(3)\_Taking\_A\_Dick\_In\_The\_Ass\_2008.wmv" depicting an approximately six year old girl engaged in anal sexual contact with an adult male; and
- d. A video file more than eleven minutes in length titled "memo\_Sash(1).wmv" depicting an approximately eight to ten year old boy engaged in oral and anal sexual contact with an adult male.

WHEREFORE, Your affiant also respectfully requests that a warrant be issued so that the defendant JOHN WILLIAM SHOLLY may be dealt with according to law.

  
Debra Gerbasi  
Special Agent - ICE

Sworn to before me this  
4<sup>th</sup> day January, 2012

  
THE HONORABLE ARLENE R. LINDSAY  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK